

HON. JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WILD FISH CONSERVANCY,

Plaintiff,

v.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, ET. AL.,**

Defendants.

CASE NO. 2:08-CV-0156-JCC

**STIPULATED FEE SETTLEMENT AND
PROPOSED ORDER APPROVING
STIPULATION**

1
2 This Stipulated Fee Settlement Agreement is made between Plaintiff, Wild Fish
3 Conservancy ("Plaintiff") and the U.S. Environmental Protection Agency, *et al.* ("Defendants")
4 to resolve Plaintiff's application for attorneys' fees and costs filed in this case on July 27, 2010
5 (Dkt. No. 71).
6

7 WHEREAS Plaintiff and Defendants ("the parties") agree that it serves the interests of
8 the parties and judicial economy and efficiency to settle Plaintiff's claim for attorneys' fees and
9 costs without the need for further litigation;

10 WHEREAS the parties enter into this Stipulation without any admission of fact or law, or
11 waiver of any claims or defenses, factual or legal;

12 ACCORDINGLY, THE PARTIES AGREE AND STIPULATE AS FOLLOWS:
13

14 1. Defendants agree to pay \$138,000.00 to settle Plaintiff's claim for fees and costs.
15 Payment shall be made via electronic wire transfer to the Wild Fish Conservancy. Counsel for
16 Plaintiff shall provide counsel for Defendant all necessary account information to effectuate the
17 electronic fund transfer and Defendant shall submit all necessary paperwork for the
18 administrative processing of the payment to the Department of Treasury's Judgment Fund Office
19 pursuant to 16 U.S.C. § 1540(g)(4) within ten (10) business days of issuance of the signed Court
20 order approving this stipulation, or receipt of all necessary information from counsel for
21 Plaintiff, whichever is later. Counsel for Defendant shall inform counsel for Plaintiff by email of
22 the submission of the necessary paperwork for the attorneys' fees payment. The account
23 information provided by Plaintiff's counsel shall be kept confidential and shall be used for the
24 sole purpose of making the electronic funds transfer provided for in this stipulation.
25

26 2. Plaintiff agrees to accept this payment in full satisfaction of any and all claims for
27 litigation fees and costs, through and including the date of this Stipulated Fee Settlement
28

1 Agreement, incurred in connection with the proceedings culminating in the Court's April 28,
2 2010 Order (Dkt. No. 66) and final judgment issued on May 3, 2010 (Dkt. No. 67).

3 3. By this Agreement, Defendants do not waive any right to contest fees claimed by
4 Plaintiff, including the hourly rate, in any future litigation or continuation of the present action.
5 Further, this stipulation as to attorneys' fees and costs has no precedential value and shall not be
6 used as evidence in any other attorneys' fees litigation.
7

8 4. Nothing in this agreement relieves Defendants of their obligation to act in a
9 manner consistent with applicable federal, state, or local law, and applicable appropriations law.
10 Nothing in this agreement shall be interpreted as, or shall constitute, a requirement that obligates
11 Defendant to pay any funds exceeding those available, or take any action in contravention of the
12 Anti-Deficiency Act, 31 U.S.C. § 1341, or any other appropriations law.
13

14 5. Each of the parties' undersigned representatives certifies that they are fully
15 authorized to enter into and execute the terms and conditions of this Stipulated Fee Settlement
16 Agreement, and do hereby agree to the terms herein.

17 6. The terms of this Agreement shall become effective upon entry of an order by the
18 Court ratifying the Agreement.
19

20 Dated: August 12, 2010

Respectfully Submitted,

22 /s/ Brian Knutsen

23 BRIAN KNUTSEN, WSBA No. 38806
24 Smith & Lowney, P.L.L.C.
25 2317 East John Street
26 Seattle, WA 98112
27 Phone: (206) 860-2883
28 Email: briank@igc.org

Attorney for Plaintiff

1 IGNACIA S. MORENO,
2 Assistant Attorney General
3 SETH M. BARSKY,
4 Acting Section Chief
5 /s/ Rickey D. Turner Jr.
6 RICKEY D. TURNER JR., Trial Attorney
7 (CO Bar # 38353)
8 U.S. Department of Justice
9 Environment & Natural Resources Division
10 Wildlife & Marine Resources Section
11 Ben Franklin Station, P.O. Box 7369
12 Washington, DC 20044-7369
13 Phone: (202) 305-0229
14 Email: rickey.turner@usdoj.gov

10 MARK NITCZYNSKI, Trial Attorney
11 (CO Bar # 20687)
12 U.S. Department of Justice
13 Environment & Natural Resources Division
14 1961 Stout Street, 8th Floor
15 Denver, CO 80294
16 Phone: (303) 844-1498

17 Attorneys for Defendants

18
19
20 PURSUANT TO STIPULATION, IT IS SO ORDERED.

21 DATED: _____

22 _____
23 JOHN C. COUGHENOUR
24 UNITED STATES DISTRICT JUDGE
25
26
27
28

1 **UNITED STATES DISTRICT COURT**
2 **WESTERN DISTRICT OF WASHINGTON**
3 **AT SEATTLE**

4 WILD FISH CONSERVANCY,

CASE NO. 2:08-CV-0156-JCC

5 Plaintiffs,

6 v.

CERTIFICATE OF SERVICE

7 UNITED STATES ENVIRONMENTAL
8 PROTECTION AGENCY, ET AL.,

9 Defendants.

10
11 I hereby certify that on August 12, 2010, I electronically filed the foregoing with
12 the Clerk of the Court using the CM/ECF system, which will send notification of such to the
13 attorneys of record.

14
15 /s/ Rickey D. Turner Jr.

16 RICKEY D. TURNER JR.
17
18
19
20
21
22
23
24
25
26
27
28